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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/983,041	10/22/2001	Atsushi Shibuya	PF-2894/NEC/US/mh	8200
30743 7590 07/25/2008 WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190				
EXAMINER				
SURVILLO, OLEG				
ART UNIT		PAPER NUMBER		
2142				
MAIL DATE		DELIVERY MODE		
07/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/983,041	Applicant(s) SHIBUYA, ATSUSHI
Examiner OLEG SURVILLO	Art Unit 2142

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 6-18, 21-29, 31, 34-38, 40, 41, 43, 45-47, 49, 50, 52, 54 and 55.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2142

Continuation of 3. NOTE: As to proposed amendment to claims 1, 16, 29, 38, and 47, this amendment would change the scope of the invention and would necessitate further consideration.

Continuation of 13. Other: Regarding the rejection of claims 16-18, 21-28, 38, 40, 41, 43, 45-47, 49, 50, 52, 54, and 55 under 35 U.S.C. 112, second paragraph, Applicant's arguments and amendment to claims 1, 16, 38, and 47 to use the phrase "display method identifying an image or sound file" has been fully considered and is sufficient. Therefore, if the amendment dated July 11, 2008 was entered, 35 U.S.C. 112, second paragraph rejection would be withdrawn. Applicants are also reminded to address 35 U.S.C. 112, second paragraph rejection of claims 49, 50, 52, 54, and 55 in their next reply.

Regarding the rejection of claims 47, 49, 50, 52, 54, and 55 under 35 U.S.C. 101, Applicant's amendment has been fully considered, but it is insufficient to overcome the rejection. In particular, amending the preamble of claim 47 to add the proposed underlined language does not satisfy the requirements of 35 U.S.C. 101 because the preamble of claim 47 has not been given a patentable weight. It is noted that amending claim 47 to include the proposed underlined language in the claim body would be sufficient to overcome 35 U.S.C. 101 rejection.

Regarding the rejection of claims 1-3, 6-18, 21-29, 31, 34-38, 40, 41, 43, 45-47, 49, 50, 52, 54, and 55 under 35 U.S.C. 103(a), Applicant's arguments have been fully considered, but they are not persuasive.

Without identification of a particular claim or claimed limitation, Applicants generally argued that: "in its purpose, structure and effect Okamoto is completely different from the present invention". In support of their argument, Applicants cited several portions and figures of Okamoto, which were not relied on in the rejection. This argument is not persuasive because Applicant's arguments are directed towards the features of Okamoto's invention, which were not relied on by Examiner. In particular, Okamoto's analysis of an image to extract a structure, which is then compared using an algorithm to a similar complex structure in an effort to determine whether the image database 214 contains the sought after image, or contains images whose objects can be edited in combination to generate the desired image, as discussed by Applicant at page 18 of the Response, is irrelevant. Thus, Examiner maintains his position that Okamoto's teachings specifically at col. 8 lines 19-47 and corresponding Figs. 2 and 3 are directly related to the claimed limitations that Okamoto was cited to show, and it would have been obvious to modify the system of Deluca by introducing the cited features of Okamoto, as fully discussed in the Office action mailed May 12, 2008. Therefore, the rejection is maintained.

Applicant further argued that: "the Examiner offers no reason for using the two techniques (pointer and file itself) together in the manner described by the claims". This argument is not persuasive because Applicants failed to specifically identify the claims that use the two techniques together (in the same claim). To that extent, at least claim 1 does not use two techniques together in the same claim. In particular, claim 1 uses either one technique, as evidenced by usage of "if" and "if not" terminology.

As to any arguments not specifically addressed, they are the same as those discussed above.